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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

North Augusta Representative Tom Huff resigned to run for a seat on the State Court of Appeals. Michael Whatley of North Charleston was appointed to replace Huff on the Judiciary Committee. Bill Riser of West Columbia took Huff's seat on the Rules Committee. That committee elected Doug Smith as chairman upon Huff's resignation. John Felder becomes first vice-chairman. Riser resigned his seat on the Operations and Management (O&M) Committee. An election to fill the O&M vacancy will be held on Thursday, January 25th.

H. 4397 or the "Economic Development Industrial Cluster Act" was adopted overwhelmingly by the House. The legislation is designed to promote expansion in our state by Michelin and Maine-based insurer, UNUM Corporation, the parent organization of Colonial Life and Accident Company. Under the measure, these two companies would be allowed to pay lower state income and property taxes. Also, the bill approves a lower equipment depreciation rate for Michelin and sets up two new enterprise zones for expansion by Michelin. In addition, any industry would be permitted to extend their jobs tax credit from ten years to fifteen years. A separate provision in the bill allows local governments to keep half of the admissions tax they collect to improve their infrastructure. However, approval of the act came only after lengthy discussion about the purpose of enterprise zones and their impact upon economic development in our state's rural and economically depressed areas. The bill now goes to the Senate for consideration.

Another measure given final approval by the House last week determines how the state will spend over ninety million dollars in surplus general revenue funds from fiscal year 1994-95. H. 4425 sets aside an additional thirty million dollars to fund economic development recruitment efforts in our state. The bill also includes money for renovations at the State House and the Department of Juvenile Justice, and funding for the Redevelopment Authorities for the Charleston Naval Base and the Myrtle Beach Air Force Base, as well as various education projects. Several other items in the supplemental bill had been vetoed from last year's budget by Governor David Beasley. They include subsistence and operating money for the House and the Senate, and funding for the University of South Carolina's Law School. An attempt was made to send the ninety million dollars back to taxpayers as part of property tax relief rather than funding these projects. However, representatives rejected the proposed amendment.

Several other bills received final reading in the House last week. H. 3532 exempts skating rinks from liability for personal injury or death from the inherent risk involved in roller skating. In order to sue, a person would have to prove the skating rink owners were negligent. H. 3203 requires that a person elected to a school board for the first time complete an orientation program. However, this would not be required if funds for reimbursement to the district are available from the State Department of Education. H. 3057 eliminates the use of driver's license and identification records in choosing jury pools for circuit court. Only voter registration lists could be used for this purpose. H. 3653, concerning rental vehicles, provides that an individual's private automobile insurance policy, if there is coverage, is considered primary rather than a policy carried by a rental company. H. 4361 develops a grant program to assist with problems related to Alzheimer's Disease,

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and H. 4329, a joint resolution, approves a study of consumer funding of long-term health care.

Second reading was given to H. 3909 which prohibits construction workers from suing design engineers for most violations of safety standards. The bill is now up for third reading this week. But a measure prohibiting a person under fifteen years old from standing or riding in open truck beds other than for agricultural or ceremonial purposes, was rejected. Representatives voted to continue the bill, effectively killing the measure for the session.

SENATE

Debate on a state lottery bill, S. 2, was attempted and rejected. A strategic vote to bring the measure to the floor for discussion failed by one vote. This indicated that the bill did not have at that time the two-third's support needed for passage.

Senators adopted a concurrent resolution (H. 3225) calling for the strengthening of states' rights. While the resolution is only symbolic rather than carrying legal weight, supporters say it sends a strong message to the federal government about unfunded mandates. The Senate added a technical amendment, so the measure returns to the House for approval. Senators also approved a bill (S. 1014) establishing the Hunley Commission to negotiate with the federal government over ownership of the submerged Confederate submarine.

Several bills were recommitted to various committees. H. 3785, the "Massage Practice Act" went back to the Committee on Medical Affairs, as did H. 3269 which exempts licensed continuing care retirement communities from having to apply for certificates of need for home health services to their residents. S. 456 allowing total not just limited immunity for guardians ad litem was sent back to the Judiciary Committee. Finally, H. 3901 dealing with the interest rate on delinquent taxes owed for real property went back to the Finance Committee so that public hearings on the bill could be held. However, an attempt to recommit H. 4138 failed. The bill provides for payment of state government expenses when a fiscal year begins without an approved budget in effect.

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COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee did not meet last week in order to allow subcommittees to meet. An Environmental Affairs subcommittee approved a bill (H. 4100) allowing counties to put liens on real estate when solid waste collection and disposal fees become delinquent. These fees are collectable in the same manner as county taxes.

The Wildlife Subcommittee adopted a measure (H. 3750) changing shrimp trawling hours in our state. It provides that shrimp may be trawled opening day through August 31st from 5:00 a.m. to 9:00 p.m., September 1st through October 31st from 6:00 a.m. to 8:00 p.m., and November 1st through the season's closing date from 6:00 a.m. to 7:00 p.m.. Currently shrimp may be trawled from the season's opening day through September 15th from 5:00 a.m. to 9:00 p.m. and September 16th through the season's closing date from 6:00 a.m. to 7:00 p.m.. The subcommittee also approved a bill (H.4332) requiring the use of approved bycatch reduction devices on shrimp trawlers, and another (H. 4334) establishing requirements and penalties for commercial eel fishing in South Carolina. Violators are subject to a fine ranging from two to five hundred dollars (\$200-\$500) or thirty day prison sentence. Other legislation which passed the subcommittee included a bill (H. 4338) allowing Sunday hunting of deer in Game Zones 1, 2, and 4, and a measure (S. 275) prohibiting the use of airboats in certain areas of South Carolina and providing exceptions.

EDUCATION AND PUBLIC WORKS

This week, the proposal for restructuring the Department of Transportation, H. 4294 was examined by a joint meeting of the House subcommittees which follow transportation issues. The bill calls for the following revisions in the Department: (1) a new emphasis on private-public partnerships and outsourcing of building projects at the Department of Transportation, (2) the elimination of state employee grievance rights for certain Department of Transportation employees so that more of the work force might serve at the will of the Director, and (3) the creation of an internal grievance procedure to cover those employees exempted from state grievance rights. In the joint meeting of the transportation subcommittees, H. 4294 was amended so as to guarantee an employee relieved of his state employee grievance rights an ultimate appeal to the Transportation Commission in a case where he feels he has been improperly dismissed. The restructuring proposal was accepted as a committee bill by the full Education and Public Works Committee and retitled H. 4474. The restructuring bill has been introduced and received its first reading in the House.

JUDICIARY

The full Judiciary Committee did not meet last week so that subcommittees could meet instead. The Criminal Laws Subcommittee voted out a bill (H. 3229) making it a felony for a person over eighteen years old to knowingly involve someone under eighteen years old

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in a violent crime. Offenders will be imprisoned for five to fifteen years. Subcommittee members also voted out a measure (H. 3566) which enacts the juvenile justice code by consolidating various current legal provisions. H. 3732 establishing driving with a canceled, revoked, or suspended license as a misdemeanor and providing new penalties for offenses, was reported favorably. Penalties for a first offense would remain two hundred dollars (\$200) or thirty days imprisonment. While the fine for a second offense would remain five hundred dollars (\$500), the sentence would be decreased from sixty to thirty days. Third and subsequent offenses would invoke a one thousand dollar (\$1000) fine or imprisonment of up to six months.

The Election Laws Subcommittee voted out a bill (S. 189) which requires candidates' names be listed alphabetically on ballots. Subcommittee members also reported favorably a measure (S. 272) which provides special elections be held on the same day as general elections if the eighteenth Tuesday after the vacancy occurs is no more than sixty days prior to the general election. S. 641 which allows discharged military servicemen to register to vote until 5:00 p.m. on an election day was voted out favorably, as was S. 772 which allows poll managers to begin removing absentee ballots from their envelopes after 2:00 p.m. rather than having to wait until after polls close. Subcommittee members also favored S. 771 requiring all candidates to file their statements of intention of candidacy between March 16th and March 30th. Legislative candidates must file their statements to the state party executive committee. Certification of the names appearing on primary ballots must be made no later than noon on April 9th. Filing for special elections opens at noon on the eleventh Tuesday after the vacancy occurs and closes at noon seven days later.

The Special Laws Subcommittee voted out H. 4398 which requires that retailers keep records of the source of their new merchandise. Without this documentation, merchandise can be seized and held as evidence. Penalties include a fine of up to five thousand dollars (\$5000) and imprisonment of up to sixty days. Upon a third offense, the merchant's Sales and Use Tax License will be revoked. However, the measure does not apply to charitable organizations which sell merchandise. Subcommittee members also favored H. 4284 concerning name changes. It requires that a certified copy of a petitioner's birth certificate be submitted. The measure also prohibits changing names if a person is incarcerated or on probation or parole.

LABOR, COMMERCE, AND INDUSTRY

The Property and Casualty Subcommittee proposed a committee bill repealing the mandate in current state law that automobile insurers write physical damage coverage (i.e. collision, comprehensive, fire, theft) for those who qualify for the safe driver discount. In eliminating this mandated coverage, the proposed legislation would send drivers with clean records who may, for other reasons, be considered too risky for insurance agents to cover to apply to the Reinsurance Facility to obtain physical damage coverage at a rate likely to be higher than the private market's. Physical damage coverage for these clean drivers is to be held at a self-sustaining rate by the Reinsurance Facility. Supporters contemplate the proposal as a way of ending a pattern of unfair subsidies in the area of physical damage which allows, for instance, the driver of a Chevrolet to absorb part of the risk-rate of another driver's BMW. Supporters also aim to prevent an increase in the portion of the recoupment

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fee attributable to physical damage coverage which safe drivers pay. The proposal awaits full committee action at the January 23 meeting.

The Labor and Commerce Subcommittee amended then reported favorably on H. 4054, which provides that Worker's Compensation laws cover participants in Tech Prep programs. The subcommittee amendment required that, in the case of Tech Prep participants, Worker's Compensation cover work-related injuries sustained off as well as on the employer's premises. The amendment targets injuries which a Tech Prep participant might receive while out on call or working in the field rather than in the employer's place of business. The subcommittee moved to table H. 4053, which provides that participants in Tech Prep programs are ineligible for unemployment compensation benefits, after being convinced that existing law covered the eventualities targeted by the bill. H. 4054 awaits action by the full committee on January 23.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee reported favorably on two measures, Joint Resolution H. 4329 which calls for a study on consumer financing of long-term care for the aging, and House Bill 4361 which establishes grants to assist communities confronting Alzheimer's Disease. These two measures received second and third readings from the House last week and were sent to the Senate.

WAYS AND MEANS

The full Ways and Means Committee did not meet last week. Instead subcommittees heard testimony from agencies presenting budget information for next fiscal year, 1996-97. Commissioner Fred Sheheen addressed the Higher Education Budget Subcommittee. Sheheen provided an overview of the funding formula and how it might be used to address such areas as productivity, efficiency, and performance. He also spoke about the differences between quality versus quantity funding, and the advantages of each. Also, the subcommittee came up with a recommendation about how to spend money from low-level radioactive waste disposal. Members voted to put thirty per cent (30%) of the revenue, or about thirty million dollars, in the "Children's Educational Endowment." The other seventy per cent (70%) would go toward school construction and maintenance. The "Children's Educational Endowment" would be a public college tuition assistance program for students from middle income families. Currently South Carolina is the only state which does not have such a program.

James Clark, director of the Department of Social Services, updated the Health and Human Services Subcommittee on Welfare Reform efforts and discussed how last year's budget vetoes impacted his agency. DSS budget requests are expected this week.

The Forestry Commission and the Department of Natural Resources presented their budget proposals to the Economic Development Subcommittee last week.

Members of the Legislative/Executive/Administrative and Local Government Subcommittee reviewed Governor David Beasley's proposed executive budget. The subcommittee also discussed the issue of using nonrecurring revenue to fund recurring expenses. This practice has doubled in the last two years.

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BILLS INTRODUCED

The following is a brief overview of some of the bills introduced last week in the House. Bill summaries are listed in numeric order according to committee assignment.

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H. 4461 DOVE SHOOTING Rep. Tucker

The bill provides that a person cannot be charged with shooting doves over bait if the field over which the doves are shot has been sowed randomly or manually.

H. 4462 PESTICIDE REGISTRATION Rep. Riser

This measure eliminates the annual pesticide registration fee which currently is one hundred dollars (\$100) per each restricted product and sixty dollars (\$60) per each nonrestricted product.

EDUCATION AND PUBLIC WORKS

H. 4443 CHARTER SCHOOLS ACT Rep. Wright

With the expressed purpose of fostering innovation and excellence in education, this bill allows for the chartering of public schools managed by an independent board of directors and relieved of certain statewide regulations. A Charter Schools Review Committee composed of legislators and gubernatorial appointees is established to review the implementation and effectiveness of the act.

H. 4447 REAL ESTATE OWNERSHIP AND SCHOOL ATTENDANCE Rep. Meacham

This bill removes the qualification which allows a child who owns real estate with an assessed value of three hundred dollars (\$300) or more in a school district to attend school in that district.

H. 4453 EDUCATION ENTRANCE EXAM GRACE PERIOD Rep. Townsend

This Joint Resolution permits certain students to retake part or all of the Education Entrance Exam for a fourth time. Students in teacher preparation programs had enjoyed a fourth attempt at the exam under a budget proviso; some of these students were in the process of qualifying for a fourth attempt when the proviso was not included in the 1995-96 general appropriations act.

H. 4476 RESTRICTED DRIVER'S LICENSES AND BEGINNER PERMITS Rep. Seithel

This bill makes successful completion of a driver training course a requirement for obtaining or renewing a driver's license. The bill raises from sixteen to seventeen the maximum age at which one might obtain a special restricted driver's license, and requires applicants for such a license to have held a beginner's permit for at least three months.

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JUDICIARY

H. 4440 ABOLISH SECRETARY OF STATE Rep. Cooper

This joint resolution provides for a public referendum to determine whether to abolish the office of Secretary of State. If voters approve abolishment, the functions and duties of this office would be divided among state constitutional officers or state agencies as the General Assembly determines.

H. 4445 ADMINISTRATIVE LAW JUDGE PROVISIONS Rep. Harrison

The measure sets the standard of proof in contested cases heard under the Administrative Procedures Act as preponderance of evidence, except in professional licensing cases where the burden of proof will be clear and convincing evidence. All cases, not just contested ones as it now stands, will be assigned by the chief judge of the Administrative Law Judge (ALJ) Division. The bill also contains provisions for the hiring and supervising of ALJ staff, and allows administrative law judges to hear cases concerning violations of coastal zone provisions.

H. 4448 HUNLEY COMMISSION Rep. Hallman

This bill establishes the Hunley Commission. The commission's purpose is to negotiate with the federal government for ownership of the sunken Confederate submarine so that the vessel will be allowed to remain in South Carolina on permanent display.

H. 4454 PRISON INSPECTION PROGRAMS Rep. Martin

Under the measure, the responsibility of enforcing the jail and prison inspection programs would be transferred from the Department of Corrections as it stands currently to the Budget and Control Board. Minimum standards for the programs would be developed by the House Medical, Military, Public and Municipal Affairs Committee and the Senate Corrections and Penology Committee. Also, the Budget and Control Board would keep records on residential and confinement facilities.

H. 4463 VICTIM IMPACT STATEMENT Rep. Allison

The proposed legislation allows family court judges to consider victim impact statements during sentencing or disposition hearings. The measure also provides that a copy of the statement must be sent to the Board of Juvenile Parole.

H. 4464 HOMICIDE BY CHILD ABUSE Rep. Allison

The bill raises the age of a victim of homicide by child abuse from eleven years old as it stands currently to eighteen years old.

H. 4465 LEWD ACTS ON CHILDREN Rep. Allison

The measure revises the ages of victims and perpetrators of this offense from fourteen to sixteen years old.

H. 4466 "NONECONOMIC DAMAGE AWARDS ACT" Rep. Kirsh

The "South Carolina Noneconomic Damage Awards Act of 1996" limits the amount and types of damage awards in personal injury cases. Compensation for noneconomic damages

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would be capped at two hundred fifty thousand dollars (\$250,000) or the amount awarded in economic damages, whichever amount is greater.

H. 4468 "ELIMINATION OF DOUBLE RECOVERIES ACT" Rep. Kirsh

This tort reform bill creates the "South Carolina Elimination of Double Recoveries Act of 1996." The measure allows courts to consider collateral source payments when determining damages in tort cases.

H. 4469 "EFFECTIVE DEATH PENALTY ACT" Rep. Wilkins

The "South Carolina Effective Death Penalty Act of 1996" expedites executions in our state. It also addresses the transfer of files to new counsel and the waiving of attorney/client privileges in post-conviction proceedings. In addition, the measure sets time limits in post-conviction relief cases.

H. 4472 INMATE LITIGATION Rep. Klauber

Aimed at preventing frivolous post conviction relief lawsuits, the measure requires inmates to pay filing fees and court costs in civil actions. Also, an inmate may lose earned work, education, and good-time credits if the courts find, among other things, that the inmate made a claim solely for harassment, presented false evidence, unreasonably delayed a proceeding, or abused discovery in the case. If an inmate has had three cases dismissed for being frivolous, the inmate would be barred from appealing or bringing another civil action. The measure is similar to another bill (H. 4371) by Rep. Klauber.

LABOR, COMMERCE, AND INDUSTRY

H. 4444 CONTINUING EDUCATION FOR INSURANCE AGENTS Rep. Sharpe

This bill exempts agents who sell pre-paid legal insurance from the continuing education required of insurance agents.

H. 4459 CONTINUING EDUCATION FOR INSURANCE AGENTS Rep. Townsend

For certain insurance agents, this bill changes from twenty-four to twelve the number of hours of continuing education required biennially.

H. 4460 INSURANCE BENEFITS Rep. J. Brown

This bill specifies that an insurer, Health Maintenance Organization, etc. is free to determine the scope of the benefits it will provide so long as the insured individual is allowed to obtain services from a provider unaffiliated with the insurance plan who sells his services at the plan's rate.

H. 4467 JOINT AGENCIES Rep. Allison

This bill: permits the Public Service Commission to allow joint agencies to acquire a project consisting of certain types of electric generating plants; removes a requirement that a joint agency acquire a set minimum percentage of rated capacity from an electrical supplier; authorizes joint agencies to enter into contracts with entities inside or outside the state;

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considers boards of directors of joint agencies to be boards of trustees and directs them to act as such.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H. 4458 FINGERPRINTING OF DAY CARE WORKERS Rep. Davenport

This bill exempts supervised volunteers in child day care settings from the required state and federal fingerprint reviews. Also, a day care worker who has undergone required fingerprint reviews would be subject to the state fingerprint review, alone, when changing employment.

WAYS AND MEANS

H. 4441 ROLLBACK TAX Rep. Cain

According to this measure, the maximum rollback tax that could be charged when property is converted from agricultural use would be one hundred dollars (\$100).

H. 4470 SALES TAX EXEMPTION-AUTOMOTIVE & WHITE GOODS Rep. Hodges

The proposed legislation exempts motor oil, new tires, lead-acid batteries, and white goods from being subject to state sales or use tax.

H. 4475 SALES TAX EXEMPTION-MEMBERSHIP FEES Rep. Baxley

The measure proposes a state sales tax exemption for membership fees or dues paid to a vendor in order to purchase merchandise.

S. 935 "GIFT OF LIFE TRUST FUND" Sen. Lander

This bill is the senate version of the "Gift of Life Organ and Tissue Procurement Act of 1996." It allows a person to contribute to the "Gift of Life Trust Fund" either when paying state income tax or when getting a driver's license. A similar measure (H. 4351) was adopted by the House and is in a Senate Finance subcommittee.

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FOOTNOTE

The Legislative Update is now on-line! Members and staff who are on the network may get to the document by pressing "LIST FILES (F5)," then typing in "H:\UPDATE" and pressing "enter." All of the Updates will be listed. Using your up/down arrows, you choose the Update corresponding to the week you need and press "enter."

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